

On December 29, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to the highest bidder on condition that purchaser adopt such safeguards as might be recommended by the Food and Drug Administration against its being disposed of in violation of the law.

4423. Misbranding of canned peas. U. S. v. 73 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 8622. Sample No. 17340-F.)

On October 21, 1942, the United States attorney for the District of New Jersey filed a libel against 73 cases, each containing 24 cans of peas, at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about August 20, 1942, by D. E. Foote & Co., Inc., from Baltimore, Md.; and charging that it was misbranded since it was below standard. The article was labeled in part: "Foote's Best Early June Peas."

On November 30, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution after the labels had been destroyed.

TOMATOES AND TOMATO PRODUCTS

Nos. 4424 to 4439 report legal actions involving tomato products. Nos. 4424 and 4425, and 4429 to 4439, incl., report actions against products made from rotten material as evidenced by mold. A portion of the canned tomatoes involved in No. 4425 was undergoing progressive spoilage.

4424. Adulteration of canned tomatoes, tomato paste, and hot sauce. U. S. v. Hershel California Fruit Products Co., Inc., and Anthony C. Morici, President. Pleas of guilty. Fine of \$225 against the corporation and \$150 against the individual defendant. (F. D. C. No. 7696. Sample Nos. 22869-E, 22870-E, 23229-E, 23239-E, 23240-E, 23701-E to 23703-E, incl., 23710-E, 23713-E, 23559-E, 81551-E, 81609-E, 81613-E, 81738-E, 85178-E, 85625-E.)

On November 19, 1942, the United States attorney for the Northern District of California filed an information against Hershel California Fruit Products Co., Inc., San Jose, Calif., and Anthony C. Morici, its president, alleging shipment and the causing to be shipped within the period from on or about September 24 to on or about December 23, 1941, from the State of California into the States of Colorado, Washington, New York, Missouri, Oregon, Louisiana, New Jersey, and West Virginia of quantities of tomato paste, hot sauce, and canned tomatoes that were adulterated in that they consisted in whole or in part of decomposed substances. The articles were labeled in part: "Salsina * * * Tomato Paste * * * Pacific Star," "Contadina * * * Tomato Paste," "Pacific Star Tomato Paste [or "Hot Sauce"]," or "Contadina Peeled Tomatoes."

On December 3, 1942, pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$225 against the corporation and \$150 against its president.

4425. Adulteration and misbranding of canned tomatoes. U. S. v. 1,583 Cases, 1,800 Cases, and 73 Cases of Canned Tomatoes. Decrees of condemnation. One lot ordered released under bond for relabeling; one lot ordered released under bond for segregation and destruction of unfit portion; remaining lot ordered given to a charitable institution. (F. D. C. Nos. 8417, 8605, 8669. Sample Nos. 17104-F, 19806-F, 24267-F.)

One of these lots was in part fermenting and the other lots were in whole or in part substandard because of the presence of excessive peel.

On September 28, October 19, and October 28, 1942, the United States attorneys for the Northern District of New York, District of Massachusetts, and the Southern District of West Virginia filed libels against 1,583 cases at Norwich, N. Y., 1,800 cases at Boston, Mass., and 73 cases at Huntington, W. Va., alleging that the article had been shipped in interstate commerce within the period from on or about July 31 to on or about September 15, 1942, by Albert W. Sisk & Son from Chincoteague, Va., Machipongo, Va., and Trappe, Md.; and charging that a portion was adulterated and that the remainder was misbranded. The article was labeled in part: (Cans) "Pine Cone Brand Tomatoes. Albert W. Sisk and Son Distributors—not Manufacturers," or "Eastern Shore Brand Tomatoes * * * Packed By Eastern Shore Canning Company Machipongo, Virginia."

The lot located at Boston, Mass., was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

The lots located at Norwich, N. Y., and Huntington, W. Va., were alleged to be misbranded in that they purported to be and were represented as a food for

which a standard of quality had been prescribed by regulations promulgated pursuant to law, but it fell below such standard since it contained tomato peel in excess of the maximum prescribed by the standard, which provides that tomato peel per pound of canned tomatoes in the container should cover an area of not more than 1 square inch, and its label failed to bear, in the manner and form that the regulations specify, a statement that it fell below the standard.

On November 28, 1942, Albert W. Sisk & Son, Aberdeen, Md., claimant for the lot located at Norwich, N. Y., having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for sorting out of any portion that might not be substandard and the relabeling of all substandard tomatoes under the supervision of the Food and Drug Administration. On November 30, 1942, the Trappe Canning Co. of Trappe, Md., having appeared as claimant for the lot located at Boston, Mass., and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the sorting out of all bad material under the supervision of the Food and Drug Administration. On December 3, 1942, no claimant having appeared for the lot located at Huntington, W. Va., judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

4426. Misbranding of canned tomatoes. U. S. v. 1,130 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 8850. Sample No. 9540-F.)

This product was substandard because it did not meet the test for strength and redness of color described in the regulations and because it contained peel in excess of the amount permitted therein.

On November 13, 1942, the United States attorney for the Eastern District of Louisiana filed a libel against 1,130 cases, each containing 24 cans, of tomatoes at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about September 11 and 15, 1942, by the Hazlehurst Canning Co. from Hazlehurst, Miss.; and charging that it was misbranded. The article was labeled in part: (Can) "Eagle Brand * * * Standard Tomatoes, Packed By A. Glorioso of New Orleans, La."

It was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but it fell below such standard and its label failed to bear, in the manner and form that the regulations specify, a statement that it fell below the standard.

On December 4, 1942, Kohlmann Bros. & Sugarman, Inc., New Orleans, La., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

4427. Misbranding of canned tomatoes. U. S. v. 1,400 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for segregation and relabeling. (F. D. C. No. 8642. Sample No. 17105-F.)

On October 28, 1942, the United States attorney for the Northern District of New York filed a libel against 1,400 cases, each case containing 24 cans, of tomatoes at Green Island, N. Y., alleging that the article had been shipped in interstate commerce on or about August 25, 1942, by H. P. Tull & Co. from Kingston, Md.; and charging that it was misbranded. The article was labeled in part: (Can) "King of the Field * * * Tomatoes."

It was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since it contained more than the maximum amount of tomato peel permitted by the standard, 1 square inch per pound of canned tomatoes in the container, and its label failed to bear, in the manner and form that the regulations specify, a statement that it fell below the standard.

On December 7, 1942, H. P. Tull & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that any portion that reexamination showed was not substandard be segregated as not requiring relabeling and that the remainder be relabeled under the supervision of the Food and Drug Administration.